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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,075	10/06/2003	Tuoc Tan Nguyen	816020-100049-US	9941
34026	7590	04/28/2005	EXAMINER	
JONES DAY 555 WEST FIFTH STREET, SUITE 4600 LOS ANGELES, CA 90013-1025			MILLER, CHERYL L	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/680,075

Applicant(s)

NGUYEN ET AL.

Examiner

Cheryl Miller

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005 and 25 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

The applicant's election of species 13, drawn toward figures 28a-b is acknowledged by the examiner. The applicant has also requested examination of species 14, drawn toward figures 29a-b. The examiner is willing to examine both species 13 and 14, since it is not a complete burden to search the additional species. However, it is noted that species 13 and 14 are still considered different species and should not be combined in the claims. For instance, claim 8 seemingly is drawn towards species 13, and dependent claim 7 seemingly belongs to a different species (species 14), which is an alteration of the claim. For this reason, claim 7 is being withdrawn from consideration for examination purposes, however will be examined in the future if placed in its own independent claim (without combining the species).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said valve" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether applicant is referring to the valve assembly or the replacement valve.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Leonhardt et al. (US 5,957,949). Leonhardt discloses a valve assembly (fig.4) comprising a replacement valve (22) having a scalloped inflow annulus (as seen in fig.4), an outflow annulus, and a plurality of leaflets, and a dual ring anchoring structure (26; fig.1B) comprising an inflow ring (bottom ring in fig.1B) and an outflow ring (top ring in fig.1B) connected by a vertical element (29), wherein the valve (22) is positioned internal of the anchoring structure (fig.4).

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Khosravi (US 5,925,063). Khosravi discloses a valve assembly (fig.2) comprising a replacement valve (28) and a dual ring anchoring structure (sheet stent 21, details not shown in fig.2, having the configuration of fig.1; col.4, lines 25-30; col.3, lines 10-15) comprising an inflow ring (1<sup>st</sup> ring seen in fig.1), and an outflow ring (last ring seen in fig.1) connected by two post vertical elements (at least two post extend from the 1<sup>st</sup> to the last ring), wherein the two posts elements are configured to slide past each other upon compression of the anchoring structure (as seen in fig.1, 6B).

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Camilli (US 5,607,465). Camilli discloses a valve assembly (fig.4) comprising a replacement valve (2) and a dual ring anchoring structure (1) comprising an inflow ring (6'), and an outflow ring (6) connected by two post vertical elements (two elements making up 5), wherein the two posts elements (5) are *configured* to slide past each other upon compression of the anchoring structure (frame 1 is capable of being compressed in multiple ways, one being shown by the arrows 8, 9 in fig.3 to linearize the frame, which would bring elements of 5 closer together, portions of them sliding by one another).

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Moll et al. (US 6,287,334 B1). Moll discloses a valve assembly (fig.1) comprising a replacement valve (6) and a dual ring anchoring structure (fig.2) comprising an inflow ring (bottom elements 10 when in contact with one another, as in fig.1 form a ring), and an outflow ring (bottom elements 10 when in contact with one another as in fig.1, form a ring) connected by two post vertical elements (anchor structure does comprise two vertical posts 8), wherein the two posts elements are configured to slide past each other upon compression of the anchoring structure (as seen in fig.3).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cheryl Miller



BRUCE SNOW  
PRIMARY EXAMINER